

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

THOMAS S. VILE, :
Plaintiff :
v. : Case No. 3:18-cv-52-KRG-KAP
JOHN MRAVITZ, et al., :
Defendants :
:

Memorandum Order

This matter was referred to Magistrate Judge Keith A. Pesto for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636 and Local Civil Rule 72.

After screening the complaint pursuant to 28 U.S.C. § 1915A the Magistrate Judge filed a Report and Recommendation at ECF no. 2 on March 22, 2018, recommending that the complaint be dismissed as to all defendants except Mravitz for failure to state a claim, and granting leave to amend in part. Plaintiff did not file objections but did file an amended complaint at ECF no. 5 that substantially repeated the allegations of the original complaint. The Magistrate Judge filed a second recommendation at ECF no. 7 on July 2, 2018, again recommending that the complaint be dismissed as to all defendants except Mravitz.

The Magistrate Judge filed a third Report and Recommendation at ECF no. 13 on August 23, 2018, recommending that the defendants' motion for summary judgment at ECF no. 8 be granted because the complaint was untimely and because plaintiff failed to

exhaust administrative remedies before filing suit. The Magistrate Judge also recommended that the plaintiff's motion to remand the complaint to state court ECF no. 12 be denied.

The parties were notified that pursuant to 28 U.S.C. § 636(b)(1), they had fourteen days to file written objections to the Report and Recommendation. No one has filed objections to the Report and Recommendation at ECF no. 13.

After *de novo* review of the record of this matter and the Reports and Recommendations despite the lack of timely objections thereto, the following order is entered:

AND NOW, this 27th day of October, 2018, it is

ORDERED that summary judgment is ordered in favor of all defendants for the claims based on Grievance Nos. 583562, 584048, and 585700, due to the statute of limitations. The portion of the Report and Recommendation at ECF no. 13 discussing the statute of limitations is adopted as the Opinion of the Court. I do not adopt the portion of the Report and Recommendation discussing exhaustion of remedies because the Civil Rights of Institutionalized Persons Act (CRIPA), 42 U.S.C. § 1997e(a) is not relevant here: the plaintiff filed the matter in state court and it was the defendants who removed the matter to federal court. It is further

ORDERED that the claim relating to the destruction of property alleged in Grievance No. 702495 is remanded for lack of subject matter jurisdiction to the Court of Common Pleas of Somerset County. The Clerk shall mark this matter closed.

BY THE COURT:



KIM R. GIBSON,
UNITED STATES DISTRICT JUDGE

Notice to counsel of record by ECF and by U.S. Mail to:

Thomas S. Vile BM-0654
S.C.I. Somerset
1600 Walters Mill Road
Somerset, PA 15510